



**REGULAR MEETING**  
**PUBLIC EMPLOYEES' RETIREMENT BOARD**

**December 12, 2008**

President John Paull called the regular meeting to order at 8:30 a.m. Friday, December 12, 2008. Roll call was taken with six members of the Board being present, Mr. Bough was excused. Board members and staff present were:

John Paull, President  
John Nielsen, Vice President  
Darcy Halpin, Member  
Ray Peck, Member  
Dianna Porter, Member  
Terry Smith, Member  
Roxanne Minnehan, Executive Director  
Melanie Symons, Legal Counsel  
Scott Miller, Legal Counsel  
Ursula Hatfield, Executive Assistant

**OPEN MEETING**

Beth Long, Great West Retirement Services; Jason Baker, Ed Cleary, Scott Moore, Matt Norby and Rick Ryan members of the Montana State Firefighter's Association; Tom Schneider, MPEA; Russell Wrigg, AMRPE; Don Kinman, Patricia Klingman, Vern Klingman, Steve Regenstreif, Tim Twardoski and Linda Zander, AFSCME; Tom Bilodeau, MEA-MFT; Mike O'Connor, former MPERA Executive Director; and Kim Flatow, Member Services Bureau Chief; Barb Quinn, Fiscal Services Bureau Chief; and Joel Thompson, Training Specialist, joined the meeting.

**MINUTES OF OPEN MEETING**

The minutes of the open meeting of November 14, 2008 were presented. Vice President Nielsen informed Executive Assistant Hatfield Mr. Twardoski's first name is Tim not Jim.

Motion: Mr. Terry Smith moved to approve the minutes of the November 14, 2008 PERB Regular Open Meeting with corrections.

Second: Ms. Darcy Halpin

No public comment.

Vote: 6/0

The amended minutes of the open meeting of October 9, 2008 were presented.

Motion: Mr. Terry Smith moved to approve the amended minutes of the October 9, 2008 PERB Regular Open Meeting.

Second: Ms. Dianna Porter

No public comment.

Vote: 6/0

**Public Comment on any subject of interest not on the Board agenda.** No public comment.

**EXECUTIVE DIRECTOR'S REPORT** – Roxanne Minnehan, Executive Director

**457 Plan Resolution and Adoption Agreement – City of Colstrip – Kathy Samson**

The City of Colstrip has passed a resolution and adoption agreement to join the State of Montana Deferred Compensation (457) Plan, effective January 1, 2009.

Motion: Mr. John Nielsen moved to approve the City of Colstrip becoming a contracted employer for purpose of allowing their employees to participate in the State's 457 Deferred Compensation Plan.

Second: Mr. Terry Smith

No public comment.

Vote: 6/0

**SEC Fund Settlements** – Kathy Samson

As a result of SEC settlement the State of Montana's Deferred Compensation (457) Plan has received checks for the following funds: Franklin Small Cap Growth, Templeton Foreign, and Janus Enterprises. Investors are to be reimbursed for market timing abuses. Staff is requesting Board approval for the proposed distribution plan.

Motion: Mr. John Nielsen moved that the SEC Fair Fund Settlements received from Franklin Small Cap Growth, Templeton Foreign and Janus Enterprise be distributed to 457 Plan participants invested in the affected mutual funds during the stated settlement periods; and that the settlement proceeds be distributed based on the percentage of total affected funds held in each participant's average account balance for each settlement period.

Second: Ms. Darcy Halpin

No public comment.

Vote: 6/0

Motion: Mr. Terry Smith moved that the settlement proceeds distributed from the SEC Fair Fund Settlements to current 457 Plan participants be credited to the individual participant's current 457 Plan funds on a pro rata basis.

Second: Mr. Ray Peck

No public comment.

Vote: 6/0

Motion: Mr. John Nielsen moved that MPERA distribute only SEC Fair Fund Settlement proceeds in excess of \$10.00 to individuals who are no longer 457 Plan participants, retaining the smaller amounts in the 457 Plan for administrative expenses.

Second: Ms. Dianna Porter

No public comment.

Vote: 6/0

### **Out of State Travel Authorizations**

The Board must approve all out of state travel. The following travel requests provide invaluable resources and networking. Both have been approved in the 2008 Budget.

### **NAPPA Winter Conference, February 4-6, Washington, DC – Scott Miller**

Mr. Miller has been appointed as lead chair of the Fiduciary and Plan Governance Committee. This is a great honor and opportunity for him and for MPERA. Mr. Miller is in charge of arranging speakers for this conference.

Motion: Mr. John Nielsen moved that Scott Miller be approved to attend the winter 2009 National Association of Public Pension Attorneys winter section meeting in Washington, D.C.

Second: Ms. Darcy Halpin

No public comment.

Vote: 6/0

**Pension & Investments Defined Contribution Conference, February 8-10, Miami. FL – Kathy Samson**

Ms. Samson is the Defined Contribution and Educational Services Bureau Chief. This conference allows her to keep abreast of the knowledge, trends and concerns in these current economic conditions.

Motion: Ms. Dianna Porter moved that Kathy Samson be approved to attend the Pension and Investment Defined Contribution Conference in Miami, FL, February 8 - 10, 2009.

Second: Ms. Darcy Halpin

No public comment.

Vote: 6/0

**AFSCME Union Dues Withholding Request – Scott Miller and Barbara Quinn**

Last month AFSCME representatives addressed the Board with their proposal to have automatic union dues withheld from retired members' benefit checks. This request first went before the Board in August 2005. The Board turned down the request at that time. President Paull requested staff to investigate the request and report back at the December Board meeting. That information is available in the Board packet. Staff is recommending that the Board stand by its original decision. Mr. Miller counseled the Board that to make a new motion the Board would need to rescind the original motion from 2005. He explained the changes that would need to be made to MPERA's database to be able to make this possible. Included in the materials from Mr. Miller is the fiscal note from HB 544, introduced in the 2007 Legislative Session to allow dues to be withheld in the same manner as proposed by AFSCME. That fiscal note shows an ongoing, and escalating, cost of over \$4,000 per year, and an initial information technology cost of \$93,792 to make the necessary modifications to our computer system. This was confirmed by ITSD. Statute 19-2-1004(3), MCA, prohibits the assignment of retirement benefits except as specifically provided in state law. The proposed deduction of AFSCME dues from retirees' checks is the partial assignment of those benefits, and there is no provision in state law allowing the assignment. The only way to allow the deduction is by the Legislature passing legislation to add the deduction as a permissible assignment.

Motion: Mr. Ray Peck moved to table action so MPERA can resolve the cost difference with the Governor's Office as well as the legal matter with Governor's attorneys.

Second: Ms. Dianna Porter

Mr. Regenstreif addressed the Board on the set-up cost. His staff has expressed the dollar amount and the number of hours needed to complete this is excessive. He stated that we do deductions so MPERA is just needing one more deduction. He is willing to work with IT to get some advice as to get the set-up fee at a reasonable amount. He explained that they have the system on 42 other agencies. Ms. Minnehan clarified that not all of these are state pension systems.

Ms. Quinn and Ms. Samson explained that we do not use SABHRS for paying out retirement monies. The system MPERA uses is an older system. When purchased it did not have the option to add additional deductions. It does not have the flexibility of newer databases.

Mr. David Ewer, Budget Office Director, addressed the Board. Mr. Ewer expressed his disappointment with the MPERA staff and the motion to table this issue. Mr. Ewer acknowledged a difference in cost. He also brought up bias on the part of MPERA staff. He states the issue is not just cost but simply not wanting the Board to pass this motion.

Vote: 6/0

Mr. Regenstrief asked the Board if his IT people could work with MPERA and the Governor's Office to speed up the process. President Paull explained the motion did not include AFSCME staff.

#### **Board Education - Retirement Plan Summary Tables – Kim Flatow**

The Retirement Plan Summary Tables is information provided to the Legislature to distinguish between the statewide retirement plans. They are also a good reference material for staff and Board members. Kim Flatow, Member Services Bureau Chief reviewed the tables highlighting the differences between each retirement plan. Ms. Flatow pointed out that each system has a different contribution rates. These tables are provided to the Legislature, most importantly the State Administrative Committee.

#### **Board Ethics Policy – Scott Miller**

We have recently created a MPERA staff policy on Ethics. Staff recommends that the Board have an Ethics Policy. The staff policy is included in the Board packet in preparation for a discussion of a Board Ethics Policy. Mr. Miller explained particular instances where one would be unethical. The Board has considered adopting an Ethics Policy in the past. The Board at that time did not feel it was necessary to have an Ethics Policy. ICE Miller advised to adopt a Board Ethics Policy. The Board of Investments (BOI) recently adopted an Ethics Policy. President Paull and Ms. Porter will be attending a Fiduciary College in January and will talk to others about this matter.

#### **Verbal Update – APPFA and Internal Controls Conference – Renae Deadmond**

Ms. Deadmond opened by explaining her role at MPERA. Ms. Deadmond is an internal auditor. She does not audit the financial part of MPERA but the internal policies and rules, to ensure these are followed properly. She monitors personal use of phones, computers and checks that employees are following the State's policies. Ms. Deadmond attended the Government Finance Officers Association (GFOA) for Internal Controls. The importance is having management reinforce the controls or the process is weak. She also attended the Association of Public Pension Fund Auditors (APPFA); this was a tool to get peers in other states that audit public pension funds. The other states assisted her with areas that they are knowledgeable about and how to make her job easier. Ms. Deadmond also spoke to Board members Ms. Halpin and Ms. Porter, who are on the

Board Audit Committee the importance of their role plays in the auditing process and what they need to do as members.

**Verbal Update – Employee Investment Advisory Committee (EIAC) Meeting, Thursday, December 4, 2008 – Kathy Samson**

Ms. Samson updated the Board on the latest EIAC meeting. EIAC had three primary items on their agenda 1.) review the quarter end reports of the investment options of the 457 Deferred Compensation Plan and the Defined Compensation Plan, results being low across the board, 2.) review the Board's investment policy statements for the 457 Deferred Compensation Plan and Defined Compensation Plan, some minor changes were made to these and 3.) discuss work planning, decide the direction that would be best to take in today's economic environment.

**Verbal Update – Legislation – Roxanne Minnehan**

The Board's Legislative Committee will meet Tuesday, December 16, 2008 at 1:30. The Board has three legislative bills. The Working Retiree Bill is now House Bill (HB) 12 and will be sponsored by Rep. Franke Wilmer. Mark Johnson, Milliman Consultants and Actuaries, has been contacted to prepare an actuarial impact statement. The Qualification Bill is LC 0258, Rep. Mike Menahan has agreed to sponsor this bill, and there is not any fiscal impact. The General Revisions Bill is LC 0260, Rep. Chuck Hunter has agreed to sponsor this bill, and there is not any fiscal impact. HB31 is the bill to include dispatchers in SRS; Mark Johnson has been contacted for an actuarial impact statement. Rep. Franke Wilmer has agreed to sponsor this bill. HB32 is the bill to increase the benefit factor in FURS; Rep. Franke Wilmer has agreed to sponsor this bill. HB33 is the bill to redefine compensation in FURS; Rep. Franke Wilmer has agreed to sponsor this bill as well.

**Verbal Update – MPERA Staffing – Roxanne Minnehan**

Paralegal: The Board made the motion in last month's meeting to make this a full-time position and include Records Management duties. Staff is working on the Job Profile and working with HR for classification.

Disabilities Examiner: This was posted externally and closed December 10, 2008.

Administrative Support, Member Services is a new position and is currently being classified.

DC Administrative Support, Patty Rutherford's last day was Friday, December 5, 2008.

**Verbal Update – Board of Investments (BOI) – John Paull**

President Paull is PERB's representative on the Board of Investments. The BOI still has not finalized numbers for November. All returns for pension plans are down, -10.5% to -12.5% for

November. PERS for November, returns are down -\$357 million to -\$425 million, last quarter we were down -\$704 million, for October -\$860 million. The range to the Montana Equity Pool has changed from 8 – 10% to 8 – 12%. There is no changes being made to the asset allocation plan. Stay the course is the action being taken at this time.

**Verbal Update – Litigation – Melanie Symons, Scott Miller**

Mr. Miller had no updates.

Ms. Symons addressed the ‘bonus’ paid to multiple members from some agencies. Two members had originally appealed the Board’s decision, but have since decided against this. The definition of compensation includes wages, salary; anything paid you for your work and bonuses. These are reported to MPERA as compensation and will affect your Highest Average Compensation (HAC). Letters to the members stated that the bonuses were pay outs of vacation or compensation time, noting that time used will be subtracted from their bonuses. MPERA researched this and determined that this was not a bonus for work performance.

**Next Board Meeting**

January 8, 2009  
February 12, 2009  
March 12, 2009

**Next Legislative Committee Meeting**

December 16, 2008

**The following portion of the meeting relates to matters of individual privacy. The Board President determined that the demands of individual privacy clearly exceed the merits of public disclosure. As such, this portion of the meeting will be closed.**

**CLOSED MEETING**

**Reconvene of open meeting**

Motion: Ms. Dianna Porter moved to approve the minutes of the November 14, 2008 PERB Regular Closed Meeting.

Second: Mr. Terry Smith

Vote: 6/0

**Renunciation Request – PERS, Active Death Benefit, PM**

Motion: Mr. Darcy Halpin moved to approve the General Release and Settlement implementing PM's desire to renounce interest in PM's Retirement Account.

Second: Mr. John Nielsen

Vote: 6/0

**Request for Final Order – VFCA, Enhanced Retirement Benefits**

Motion: Mr. Terry Smith moved to adopt the Hearing Officer's Order Granting PERB's (MPERA's) Motion for Summary Judgment, denying claimant's Motion for Summary Judgment, and Proposal for Decision as the Board's Final Order in this matter.

Second: Mr. Ray Peck

Vote: 5/0, President Paull recused himself

**Finalized Service Retirements Disability Benefit Payments - Kim Flatow**

Motion: Ms. Dianna Porter moved to approve the Finalized Service Retirement/Disability Benefit Payments with addendum and corrections.

Second: Mr. Ray Peck

Vote: 6/0

**ADJOURNMENT**

There being no further business before the Board, Ms. Darcy Halpin moved to adjourn the meeting, Mr. Terry Smith seconded. All voted aye, next regular meeting will be Thursday, January 8, 2009. Meeting closed at approximately 12:30.